

2001

**HOUSE
TRAVEL & TOURISM**

MINUTES

**HOUSE COMMITTEE ON
TRAVEL AND TOURISM**

2001 - 2002 SESSION

COMMITTEE CHAIRS

Representatives Barefoot and Teague

COMMITTEE VICE CHAIR

Representative Nesbitt

Jackie Pittman and Anna Kidd

COMMITTEE ASSISTANTS

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE TRAVEL AND TOURISM COMMITTEE
2001 – 2002 SESSION**



**Rep. Barefoot
Chair**



**Rep. Teague
Chair**



**Rep. Nesbitt
Vice-Chair**



Rep. Earle



Rep. Fox



Rep. Hunter



Rep. Jeffus



Rep. Owens



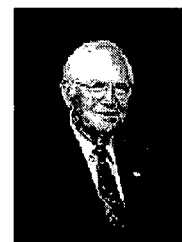
Rep. Preston



Rep. Rayfield



Rep. Shubert



Rep. Weatherly

HOUSE COMMITTEE ON TRAVEL AND TOURISM
2000 – 2002 Session

<u>MEMBER</u>	<u>ASSISTANT</u>	<u>PHONE</u>	<u>OFFICE</u>	<u>SEAT</u>
BAREFOOT, Daniel Chairman	Jackie Pittman Committee Assistant	733-3021	416	
TEAGUE, “Junior” Chairman	Anna Kidd Committee Assistant	733-5530	1017	
NESBITT, Martin Vice Chair	Jan Lee	715-3001	420	
EARLE, Beverly	Ann Raeford	733-5747	535	
FOX, Stanley	Mary Capps	733-5758	2123	
HUNTER, Howard	Barbara Phillips	733-2962	613	
JEFFUS, Maggie	Mary Lee Robinson	733-5191	2204	
PRESTON, Jean	Dot Barber	733-5706	603	
RAYFIELD, John	Barbara Olds	733-5607	609	
WEATHERLY, John	Nancy Garriss	733-4838	502	

ATTENDANCE

HOUSE COMMITTEE ON TRAVEL AND TOURISM

(Name of Committee)

DATES	5-23-01	5-30-01																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									</
-------	---------	---------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	----

North Carolina General Assembly
Through House Committee on
Travel and Tourism

Date: 10/16/2001
Time: 14:57
Page: 001 of 001
Leg. Day: H-150/S-149

2001-2002 Biennium

<u>Bill</u>	<u>Introducer</u>	<u>Short Title</u>	<u>Latest Action</u>	<u>In Date</u>	<u>Out Date</u>
H1110=	Earle	NORTH CAROLINA TOURISM DEVELOPMENT ACT.	*H Re-ref Com On Finance	04-11-01	05-31-01

'\$' indicates the bill is an appropriation bill.

A bold line indicates the bill is an appropriation bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

HOUSE TRAVEL AND TOURISM COMMITTEE

AGENDA

Wednesday, May 23, 2001
Room 415 Legislative Office Building
10:00 A.M.

OPENING REMARKS

**Representative Dan Barefoot, Chairman Presiding
Travel and Tourism Committee**

1. CALL TO ORDER

11. WELCOME

111 INTRODUCTIONS

**1V. HB 1110 - NORTH CAROLINA TOURISM DEVELOPMENT ACT
Representative Beverly Earle, Sponsor**

V. COMMENTS

VI. ADJOURN

HOUSE COMMITTEE ON TRAVEL AND TOURISM

Minutes
May 23, 2001
Room 415

The House Committee on Travel and Tourism met at 10:00 a.m. on Wednesday, May 23, 2001 in Room 415 of the Legislative Office Building, Raleigh, NC.

Members present included Reps. Earle, Fox, Jeffus, Vice Chair Nesbitt, Owens, Preston, Rayfield, Shubert, Chairman Teague, and Weatherly. Rep. Barefoot, Chairman, presided. Karen Cochrane Brown, Staff Counsel was also present. A Visitor Registration Sheet is attached and made part of the minutes.

Chairman Barefoot called the meeting to order and introduced the pages to the members. Since this was the first meeting of the Committee, Rep. Barefoot asked each committee member to introduce himself or herself.

At this time, Chairman Barefoot expressed how important Travel and Tourism is to the state of North Carolina. He further stated that our beautiful mountains and our impressive coastal areas bring people to the state from all over the world.

Chairman Barefoot announced that the proposed committee substitute for **HB 1110 (North Carolina Tourism Development Act)**, sponsored by Rep. Earle, Barefoot and Rogers, and was before the Committee for discussion. (See Attachment I)

Rep. Earle explained that the bill was a study commission bill. She further explained that this bill proposes two new programs to provide incentives for capital tourism projects. The first program is modeled after the William S. Lee Quality Jobs and Business Expansion Act. Under this program, eligible tourism businesses could receive tax credits for creating new jobs and for investment in tourism property, located in a tier one, two, or three county or in a development zone. The second is the Travel and Tourism Capital Incentive Grant Program. This program authorizes the allocation of grant funds to local governments for the purpose of inducing the creation of new or the expansion or renovation of existing tourism projects. (See Attachment II)

Next Rep. Earle introduced Mr. James Hobbs with the North Carolina Hotel/Motel Association who addressed the committee members. Mr. Hobbs supports and encourages these incentives for the Travel and Tourism Industry. He stated that the need for such a bill is overwhelming and urged the committee to look favorably on this bill.

Rep. Earle introduced Lynn Minges, Director of Travel and Tourism, Department of Commerce. Ms. Minges stated that Travel and Tourism is a \$12 Billion dollar industry and growing. Most importantly it generates taxes into our economy. She also stated that she supports any efforts to continue promoting Tourism for the state of North Carolina. Discussion followed.

The floor was opened for questions and discussion. Rep. Rayfield asked if this was a new grant program. Rep. Earle answered yes. Follow up question, Rep. Rayfield asked if there is a fiscal note. Rep. Earle answered No, that guidelines and specific outlines must be followed for benefits to be gained. Rep. Rayfield asked why there was a sunset on the bill. Rep. Earle responded that it was recommended to have one in order to study it and make sure it is doing what it was intended to do.

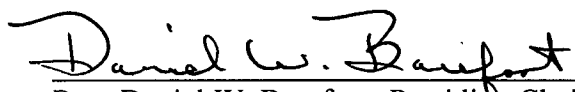
Rep. Owens stated that although the concept of the bill is super, there is no money. He further stated that the bill has problems.

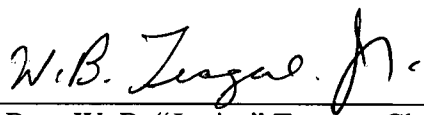
Rep. Shubert stated that as an accountant this is a painful bill. There is a need for a fiscal note and further stated that this is a bad tax policy. Further discussion followed.

Rep. Rayfield made a motion to defer action on the bill until the next meeting. Motion carried.

Rep. Nesbitt requested that staff attorney prepare a fiscal note to be presented at the next meeting. No vote was taken for the proposed committee substitute on HB #1110 (North Carolina Tourism Development Act) was taken. It will be taken up at the next meeting for further discussion.

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


Rep. Daniel W. Barefoot, Presiding Chair


Rep. W. B. "Junior" Teague, Chair


Anna P. Kidd, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

1

HOUSE BILL 1110

Short Title: North Carolina Tourism Development Act.

(Public)

Sponsors: Representatives Earle, Barefoot, Rogers (Primary Sponsors); Alexander, Easterling, Gibson, Goodwin, Gulley, McMahan, Saunders, and Wainwright.

Referred to: Travel and Tourism, if favorable, Finance.

April 11, 2001

A BILL TO BE ENTITLED
AN ACT TO PROVIDE TAX INCENTIVES FOR CAPITAL TOURISM PROJECTS
IN TIER ONE, TWO, AND THREE COUNTIES, AND TO CREATE THE
TRAVEL AND TOURISM CAPITAL INCENTIVE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3E.

"Tax Incentives For New And Expanding Tourism Businesses.

"§ 105-129.41. Definitions.

The following definitions apply in this Article:

- (1) Attractor. – A tourism facility that draws tourists to the local area for one or more days on its own merits, is designed primarily to attract tourists rather than local residents, and invests its own capital to market its products and services. Examples of attractors include museums, downtown areas, amusement parks, and facilities that promote local crafts.
- (2) Cost. – Defined in G.S. 105-129.2.
- (3) Development zone. – Defined in G.S. 105-129.2.
- (4) Enterprise tier. – Defined in G.S. 105-129.2.
- (5) Full-time job. – Defined in G.S. 105-129.2.
- (6) Machinery and equipment. – Defined in G.S. 105-129.2.
- (7) NAICS. – Defined in G.S. 105-129.2.
- (8) Purchase. – Defined in G.S. 105-129.2.

(9) Tourism facility. – A facility that attracts tourists from more than 100 miles away to the local area where they spend money on lodging, food, and entertainment.

(10) Tourism property. – Buildings, machinery and equipment, furniture, or fixtures used in engaging in business as an attractor or an associated attractor.

"§ 105-129.42. Sunset; no double credit.

(a) Sunset. – This Article is repealed effective for applications for credits filed on or after January 1, 2008.

(b) No Double Credit. – A taxpayer that takes a credit under this Article with respect to jobs or property is not allowed a credit under any other Article of this Chapter with respect to the same jobs or property.

"§ 105-129.43. Eligibility; forfeiture.

(a) Type of Business. – A taxpayer is eligible for a credit allowed by this Article if the taxpayer is engaged in business primarily as an attractor or an associated attractor, the jobs with respect to which a credit is claimed are created in that business, and the tourism property with respect to which a credit is claimed are used in that business.

(b) Wage Standard. – A taxpayer is eligible for a credit allowed by this Article if the jobs at the location with respect to which the credit is claimed meet the wage standard provided in G.S. 105-129.4(b) at the time the taxpayer applies for the credit.

(c) Location. – A taxpayer is eligible for a credit allowed by this Article if the location with respect to which the credit is claimed is in an enterprise tier one, two, or three area or is in a development zone.

(d) Health Insurance. – A taxpayer is eligible for the credit for creating tourism jobs under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is eligible for the tourism investment credit under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed at the time the taxpayer applies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(e) Environmental Impact. – A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer applies for the credit, the taxpayer has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the

1 Department of Environment and Natural Resources and has had no final determination
2 of responsibility for any significant administrative, civil, or criminal violation of any
3 program implemented by an agency of the Department of Environment and Natural
4 Resources within the last five years. A significant violation is a violation or alleged
5 violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The
6 Secretary of Commerce will provide the Department of Environment and Natural
7 Resources a list of all taxpayers making this certification. The Department of
8 Environment and Natural Resources may conduct random audit checks to verify
9 taxpayers' certifications. The Department of Environment and Natural Resources must
10 notify the Department of Revenue of any taxpayer certifications it determines are not
11 accurate.

12 (f) Safety and Health Programs. – A taxpayer is eligible for a credit allowed
13 under this Article only if the taxpayer certifies that, as of the time the taxpayer applies
14 for the credit, at the business location with respect to which the credit is claimed, the
15 taxpayer has no outstanding citations under the Occupational Safety and Health Act and
16 has had no serious violation as defined in G.S. 95-127 within the last three years. The
17 Secretary of Commerce will provide the Department of Labor a list of all taxpayers
18 making this certification. The Department of Labor may conduct random audit checks
19 to verify taxpayers' certifications. The Department of Labor must notify the Department
20 of Revenue of any taxpayer certifications it determines are not accurate.

21 (g) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
22 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A
23 taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a
24 result of the credit plus interest at the rate established under G.S. 105-241.1(i),
25 computed from the date the taxes would have been due if the credit had not been
26 allowed. The past taxes and interest are due 30 days after the date the credit is forfeited;
27 a taxpayer that fails to pay the past taxes and interest by the due date is subject to the
28 penalties provided in G.S. 105-236.

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

36 **"§ 105-129.44. Tax election; cap.**

37 (a) Tax Election. – The credits provided in this Article are allowed against the
38 franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of
39 this Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The
40 taxpayer must take a credit allowed under this Article against only one of the taxes
41 against which it is allowed. The taxpayer must elect the tax against which a credit will
42 be claimed when filing the return on which the first installment of the credit is claimed.
43 This election is binding. Any carryforwards of the credit must be claimed against the
44 same tax.

(b) Cap. – The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article and Articles 3A and 3B of this Chapter against each tax for the taxable year. Any unused portion of a credit may be carried forward for the succeeding five years.

"§ 105-129.45. Application; reports.

(a) Application. – To claim a credit allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.43 with respect to each credit. A taxpayer must apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility requirements. In addition, the application must state the number of full-time jobs to be created that are located within a development zone, the number of full-time jobs to be created that are expected to be filled by employees residing within the development zone, and the number of full-time jobs to be created that are expected to be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.43 with respect to a credit, the Secretary must issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.43 with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(b) Fee. – When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee of five hundred dollars (\$500.00) for each credit the taxpayer intends to claim with respect to a location that is not in an enterprise zone or in an enterprise tier one or two area, subject to a maximum fee of one thousand five hundred dollars (\$1,500) per taxpayer per taxable year. If the taxpayer applies for certification for a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce must retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce must credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits allowed in this Article. The proceeds of the fee are receipts of the Department to which they are credited.

(c) Reports. – The Department of Commerce must report to the Department of Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

- (1) The number of applications for each credit allowed in this Article.
- (2) The number and enterprise tier area of new jobs with respect to which credits were applied for.
- (3) The cost of tourism property with respect to which credits were applied for.
- (4) The number of new jobs created within development zones and the percentage of those jobs that were filled by residents of the zones.

"§ 105-129.46. Substantiation.

(a) To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit is on the taxpayer, and no credit is allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(b) Each taxpayer must provide with the tax return qualifying information for each credit claimed under this Article for the first taxable year the credit is claimed and for every year in which a subsequent installment or a carryforward of that credit is claimed. The qualifying information must be in the form prescribed by the Secretary, must cover each taxable year beginning with the first taxable year the credit is claimed, and must be signed and affirmed by the individual who signs the taxpayer's tax return. The information required by this subsection is information demonstrating that the taxpayer has met the conditions for qualifying for an initial credit and any installments and carryforwards and includes the following:

- (1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier or development zone designation of that place.
- (2) The type of business with respect to which the credit is claimed, as required by G.S. 105-129.43(a), and wage information described in G.S. 105-129.43(b).
- (3) Qualifying information required for the credit for creating tourism jobs and the tourism investment credit allowed under this Article.

"§ 105-129.47. Credit for creating tourism jobs.

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.43, has five or more full-time employees, and hires an additional full-time employee during the taxable year to fill a position located in an enterprise tier one, two,

1 or three area or in a development zone is allowed a credit for creating a new full-time
2 job. The amount of the credit for each new full-time job created is set out in the table
3 below and is based on the enterprise tier of the area in which the position is located. In
4 addition, if the position is located in a development zone, the amount of the credit is
5 increased by four thousand dollars (\$4,000) per job.

<u>Area Enterprise Tier</u>	<u>Amount of Credit</u>
<u>Tier One</u>	<u>\$12,500</u>
<u>Tier Two</u>	<u>4,000</u>
<u>Tier Three</u>	<u>3,000</u>
<u>Tier Four</u>	<u>-0-</u>
<u>Tier Five</u>	<u>-0-</u>

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

19 If, in one of the four years in which the installment of a credit accrues, the number of
20 the taxpayer's full-time employees falls below the number of full-time employees the
21 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires,
22 and the taxpayer may not take any remaining installment of the credit. The taxpayer
23 may, however, take the portion of an installment that accrued in a previous year and was
24 carried forward to the extent permitted under G.S. 105-129.44.

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

31 (b) Planned Expansion. – A taxpayer that signs a letter of commitment with the
32 Department of Commerce to create at least 20 new full-time jobs in a specific area
33 within two years after the date the letter is signed qualifies for the credit in the amount
34 allowed by this section based on the area's enterprise tier and development zone
35 designation for that year even though the employees are not hired that year. The credit is
36 available in the taxable year after at least 20 employees have been hired if the hirings
37 are within the two-year commitment period. The conditions outlined in subsection (a) of
38 this section apply to a credit taken under this subsection except that if the area is
39 redesignated to a higher-numbered enterprise tier or loses its development zone
40 designation after the year the letter of commitment was signed, the credit is allowed
41 based on the area's enterprise tier and development zone designation for the year the
42 letter was signed. If the taxpayer does not hire the employees within the two-year
43 period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies

1 for a credit under subsection (a) of this section in the year any new employees are hired,
2 the taxpayer may take the credit under that subsection.

3 **"§ 105-129.48. Credit for tourism investment.**

4 (a) Credit. – If a taxpayer that has purchased or leased eligible tourism property
5 places it in service in an enterprise tier one, two, or three area during the taxable year,
6 the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible
7 investment amount over the applicable threshold. For the purpose of this section, a
8 development zone is considered an enterprise tier one area. Tourism property is eligible
9 if it is capitalized by the taxpayer for tax purposes under the Code and not leased to
10 another party. The credit may not be taken for the taxable year in which the property is
11 placed in service but must be taken in equal installments over the seven years following
12 the taxable year in which it is placed in service.

13 (b) Eligible Investment Amount. – The eligible investment amount is the lesser
14 of (i) the cost of the eligible tourism property and (ii) the amount by which the cost of
15 all of the taxpayer's eligible tourism property that is in service in this State on the last
16 day of the taxable year exceeds the cost of all of the taxpayer's eligible tourism property
17 that was in service in this State on the last day of the base year. The base year is that
18 year, of the three immediately preceding taxable years, in which the taxpayer had the
19 most eligible tourism property in service in this State. A taxpayer that claims a credit
20 under this section must include with the application for certification required under G.S.
21 105-129.45 specific documentation supporting the taxpayer's calculation of the eligible
22 investment amount under this subsection.

23 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
24 following table based on the enterprise tier of the area where the eligible tourism
25 property is placed in service during the taxable year. If the taxpayer places eligible
26 tourism property in service in more than one county during the taxable year, the
27 threshold applies separately to the eligible tourism property placed in service in each
28 county. If the taxpayer places eligible tourism property in service in a county over the
29 course of a two-year period, the applicable threshold for the second taxable year is
30 reduced by the eligible investment amount for the previous taxable year.

<u>Area Enterprise Tier</u>	<u>Threshold</u>
<u>Tier One</u>	<u>\$ -0-</u>
<u>Tier Two</u>	<u>100,000</u>
<u>Tier Three</u>	<u>200,000</u>

35 (d) Expiration. – If, in one of the seven years in which the installment of a credit
36 accrues, the tourism property with respect to which the credit was claimed is disposed
37 of, taken out of service, or moved to an area that is not an enterprise tier one, two, or
38 three area, the credit expires, and the taxpayer may not take any remaining installment
39 of the credit for that tourism property unless the cost of that tourism property is offset in
40 the same taxable year by the taxpayer's new investment in eligible tourism property
41 placed in service in the same enterprise tier, as provided in this subsection. If, during the
42 taxable year the taxpayer disposed of the tourism property for which installments
43 remain, there has been a net reduction in the cost of all the taxpayer's eligible tourism
44 property that is in service in the same enterprise tier as the tourism property that was

1 disposed of, and the amount of this reduction is greater than twenty percent (20%) of the
2 cost of the tourism property that was disposed of, then the taxpayer forfeits the
3 remaining installments of the credit for the tourism property that was disposed of. If the
4 amount of the net reduction is equal to twenty percent (20%) or less of the cost of the
5 tourism property that was disposed of, or if there is no net reduction, then the taxpayer
6 does not forfeit the remaining installments of the expired credit. In determining the
7 amount of any net reduction during the taxable year, the cost of tourism property the
8 taxpayer placed in service during the taxable year and for which the taxpayer claims a
9 credit under Article 3B of this Chapter may not be included in the cost of all the
10 taxpayer's eligible tourism property that is in service. If in a single taxable year tourism
11 property with respect to two or more credits in the same tier is disposed of, the net
12 reduction in the cost of all the taxpayer's eligible tourism property that is in service in
13 the same tier is compared to the total cost of all the tourism property for which credits
14 expired in order to determine whether the remaining installments of the credits are
15 forfeited.

16 The expiration of a credit does not prevent the taxpayer from taking the portion of an
17 installment that accrued in a previous year and was carried forward to the extent
18 permitted under G.S. 105-129.44.

19 If, in one of the seven years in which the installment of a credit accrues, the tourism
20 property with respect to which the credit was claimed is moved to a higher-numbered
21 enterprise tier area, the remaining installments of the credit are allowed only to the
22 extent they would have been allowed if the tourism property had been placed in service
23 initially in the area to which it was moved.

24 (e) **Planned Expansion.** – A taxpayer that signs a letter of commitment with the
25 Department of Commerce to place specific eligible tourism property in service in an
26 area within two years after the date the letter is signed may, in the year the eligible
27 tourism property is placed in service in that area, calculate the credit for which the
28 taxpayer qualifies based on the area's enterprise tier designation for the year the letter
29 was signed. All other conditions apply to the credit, but if the area has been
30 redesignated to a higher-numbered enterprise tier after the year the letter of commitment
31 was signed, the credit is allowed based on the area's enterprise tier for the year the letter
32 was signed. If the taxpayer does not place part or all of the specified eligible tourism
33 property in service within the two-year period, the taxpayer does not qualify for the
34 benefit of this subsection with respect to the tourism property not placed in service
35 within the two-year period. However, if the taxpayer qualifies for a credit in the year the
36 eligible tourism property is placed in service, the taxpayer may take the credit for that
37 year as if no letter of commitment had been signed pursuant to this subsection."

38 **SECTION 2.** G.S. 105-129.16(c) reads as rewritten:

39 "(c) **No Double Credit.** – A taxpayer that claims ~~the~~ a credit allowed under Article
40 3A ~~or~~ Article 3E of this Chapter with respect to business property may not take the
41 credit allowed in this section with respect to the same property. A taxpayer may not take
42 the credit allowed in this section for business property the taxpayer leases from another
43 unless the taxpayer obtains the lessor's written certification that the lessor will not

1 capitalize the property for tax purposes under the Code and the lessor will not claim the
2 credit allowed in this section with respect to the property."

3 SECTION 3. Chapter 143B of the General Statutes is amended by adding a
4 new section to read:

5 **"§ 143B-434.3. Travel and Tourism Capital Incentive Grant Program.**

6 (a) There is established in the Department of Commerce the Travel and Tourism
7 Capital Incentive Grant Program. Grant funds shall be allocated to local government
8 units for the purpose of inducing the creation of new or the expansion or renovation of
9 existing travel and tourism qualified projects. Grants shall be made available to city and
10 county governments that provide public funding, in whole or in part, that directly
11 supports a qualified tourism project. Grant funds shall be used only for the support of
12 qualified tourism projects. The Department of Commerce shall adopt rules for the
13 administration of the program. The rules shall include the following provisions:

- 14 (1) Local government units may apply to the Department of Commerce
15 for Travel and Tourism Capital Incentive Grants no sooner than one
16 year after the qualified tourism project is opened to the public and no
17 later than five years after it is opened to the public. The application
18 shall contain all necessary information regarding the nature and cost of
19 the tourism project, the estimated revenues to be generated by the
20 project, the estimated economic benefit to the community, and the
21 purposes for which the local government unit will use the grant funds.
- 22 (2) Local government units may enter into agreements with private
23 investors to develop new or expand or renovate existing tourism
24 projects. If the tourism project is the result of a public private
25 partnership, the grant application shall set forth in detail the respective
26 rights and obligations of the parties and the specific terms of the
27 agreement.
- 28 (3) A qualified tourism project must meet the following conditions:
- 29 a. The project will attract at least twenty-five percent (25%) of its
30 visitors from among persons who reside more than 100 miles
31 from the tourism project;
- 32 b. The project will have a profitable business plan and once
33 opened must demonstrate profitability within three years;
- 34 c. The project must have impact projections regarding estimated
35 State and local tax revenues;
- 36 d. The project will have a significant and positive impact on the
37 community, considering among other factors, the extent to
38 which the tourism project will compete directly with existing
39 tourism attractions in the area and the amount by which tax
40 revenues from the tourism project will exceed the amount of the
41 grant provided to the local government unit;
- 42 e. The project will produce sufficient revenues and public
43 demand to be operating and open to the public for a
44 minimum of 100 days per year;

f. The project will generate at least 10 new jobs in the local area.

g. The project will have a minimum cost based on the following:

<u>Enterprise Tier</u>	<u>Minimum Cost</u>
<u>1 and 2:</u>	<u>one million dollars</u> <u>(\$1,000,000);</u>
<u>3 and 4</u>	<u>fifteen million dollars</u> <u>(\$15,000,000);</u>
<u>5</u>	<u>thirty million dollars</u> <u>(\$30,000,000).</u>

(b) The amount of each grant shall be determined as an amount equal to a percentage of the total amount of the following taxes generated by the qualified tourism project: (i) the net State sales tax collected by the qualified tourism project, in accordance with Article 5 of Chapter 105 of the General Statutes, (ii) the net privilege tax paid by a qualified tourism project in accordance with G.S. 105-37.1, and (iii) the amount withheld from the wages of each employee of the qualified tourism project, in accordance with G.S. 105-163.2. The percentage shall vary depending on the enterprise tier, as defined in G.S. 105-129.3, in which the qualified tourism project is located. If the project is located in a tier one or two county, the local government unit is eligible for a grant in an amount equal to no more than thirty-five percent (35%) of the eligible taxes generated by the project. If the project is located in a tier three or four county, the local government unit is eligible for a grant in an amount equal to no more than thirty percent (30%) of the eligible taxes generated by the project. If the project is located in a tier five county, the local government unit is eligible for a grant in an amount equal to no more than twenty-five percent (25%) of the eligible taxes generated by the project.

(c) The Department of Commerce may reserve and allocate up to ten percent (10%) of the funds available to the Travel and Tourism Capital Incentive Grant Program to State and local administrative costs to implement the Program.

(d) The Department of Commerce shall report annually to the General Assembly concerning the applications made to the fund and the payments made from the fund. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the General Assembly on the use of moneys in the fund, including information regarding to whom payments were made, in what amounts, and for what purposes."

SECTION 4. This act becomes effective for taxable years beginning on or after January 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

D

HOUSE BILL 1110
PROPOSED COMMITTEE SUBSTITUTE H1110-CSRO-21 [v.1]

5/23/2001 9:05:25 AM

Short Title: North Carolina Tourism Development Act.

(Public)

Sponsors:

Referred to:

April 11, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TAX INCENTIVES FOR CAPITAL TOURISM PROJECTS
3 IN TIER ONE, TWO, AND THREE COUNTIES, AND TO CREATE THE
4 TRAVEL AND TOURISM CAPITAL INCENTIVE GRANT PROGRAM.

5
6 The General Assembly of North Carolina enacts:7 SECTION 1. Chapter 105 of the General Statutes is amended by adding a
8 new Article to read:

9 "Article 3E.

10 "Tax Incentives For New And Expanding Tourism Businesses.11 "§ 105-129.41. Definitions.12 The following definitions apply in this Article:

- 13 (1) Attractor. – A tourism facility that draws tourists to the local area for
14 one or more days on its own merits, is designed primarily to attract
15 tourists rather than local residents, and invests its own capital to
16 market its products and services. Examples of attractors include
17 museums, downtown areas, amusement parks, and facilities that
18 promote local crafts.
- 19 (2) Cost. – Defined in G.S. 105-129.2.
- 20 (3) Development zone. – Defined in G.S. 105-129.2.
- 21 (4) Enterprise tier. – Defined in G.S. 105-129.2.
- 22 (5) Full-time job. – Defined in G.S. 105-129.2.
- 23 (6) Machinery and equipment. – Defined in G.S. 105-129.2.
- 24 (7) NAICS. – Defined in G.S. 105-129.2.
- 25 (8) Purchase. – Defined in G.S. 105-129.2.
- 26 (9) Tourism facility. – A facility that attracts tourists from more than 100
27 miles away to the local area where they spend money on lodging, food,
28 and entertainment.

(10) Tourism property. – Buildings, machinery and equipment, furniture, or fixtures used in engaging in business as an attractor.

"§ 105-129.42. Sunset; no double credit.

(a) Sunset. – This Article is repealed effective for applications for credits filed on or after January 1, 2008.

(b) No Double Credit. – A taxpayer that takes a credit under this Article with respect to jobs or property is not allowed a credit under any other Article of this Chapter with respect to the same jobs or property.

"§ 105-129.43. Eligibility; forfeiture.

(a) Type of Business. – A taxpayer is eligible for a credit allowed by this Article if the taxpayer is engaged in business primarily as an attractor, the jobs with respect to which a credit is claimed are created in that business, and the tourism property with respect to which a credit is claimed are used in that business.

(b) Wage Standard. – A taxpayer is eligible for a credit allowed by this Article if the jobs at the location with respect to which the credit is claimed meet the wage standard provided in G.S. 105-129.4(b) at the time the taxpayer applies for the credit.

(c) Location. – A taxpayer is eligible for a credit allowed by this Article if the location with respect to which the credit is claimed is in an enterprise tier one, two, or three area or is in a development zone.

(d) Health Insurance. – A taxpayer is eligible for the credit for creating tourism jobs under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is eligible for the tourism investment credit under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed at the time the taxpayer applies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(e) Environmental Impact. – A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer applies for the credit, the taxpayer has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any

1 program implemented by an agency of the Department of Environment and Natural
2 Resources within the last five years. A significant violation is a violation or alleged
3 violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The
4 Secretary of Commerce will provide the Department of Environment and Natural
5 Resources a list of all taxpayers making this certification. The Department of
6 Environment and Natural Resources may conduct random audit checks to verify
7 taxpayers' certifications. The Department of Environment and Natural Resources must
8 notify the Department of Revenue of any taxpayer certifications it determines are not
9 accurate.

10 (f) Safety and Health Programs. – A taxpayer is eligible for a credit allowed
11 under this Article only if the taxpayer certifies that, as of the time the taxpayer applies
12 for the credit, at the business location with respect to which the credit is claimed, the
13 taxpayer has no outstanding citations under the Occupational Safety and Health Act and
14 has had no serious violation as defined in G.S. 95-127 within the last three years. The
15 Secretary of Commerce will provide the Department of Labor a list of all taxpayers
16 making this certification. The Department of Labor may conduct random audit checks
17 to verify taxpayers' certifications. The Department of Labor must notify the Department
18 of Revenue of any taxpayer certifications it determines are not accurate.

19 (g) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
20 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A
21 taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a
22 result of the credit plus interest at the rate established under G.S. 105-241.1(i),
23 computed from the date the taxes would have been due if the credit had not been
24 allowed. The past taxes and interest are due 30 days after the date the credit is forfeited;
25 a taxpayer that fails to pay the past taxes and interest by the due date is subject to the
26 penalties provided in G.S. 105-236.

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

34 **"§ 105-129.44. Tax election; cap.**

35 (a) Tax Election. – The credits provided in this Article are allowed against the
36 franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of
37 this Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The
38 taxpayer must take a credit allowed under this Article against only one of the taxes
39 against which it is allowed. The taxpayer must elect the tax against which a credit will
40 be claimed when filing the return on which the first installment of the credit is claimed.
41 This election is binding. Any carryforwards of the credit must be claimed against the
42 same tax.

(b) Cap. – The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article and Articles 3A and 3B of this Chapter against each tax for the taxable year. Any unused portion of a credit may be carried forward for the succeeding five years.

"§ 105-129.45. Application; reports.

(a) Application. – To claim a credit allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.43 with respect to each credit. A taxpayer must apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility requirements. In addition, the application must state the number of full-time jobs to be created that are located within a development zone, the number of full-time jobs to be created that are expected to be filled by employees residing within the development zone, and the number of full-time jobs to be created that are expected to be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.43 with respect to a credit, the Secretary must issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.43 with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(b) Fee. – When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee of five hundred dollars (\$500.00) for each credit the taxpayer intends to claim with respect to a location that is not in an enterprise zone or in an enterprise tier one or two area, subject to a maximum fee of one thousand five hundred dollars (\$1,500) per taxpayer per taxable year. If the taxpayer applies for certification for a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce must retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce must credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits allowed

1 in this Article. The proceeds of the fee are receipts of the Department to which they are
2 credited.

3 (c) Reports. – The Department of Commerce must report to the Department of
4 Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each
5 year the following information for the 12-month period ending the preceding April 1:

6 (1) The number of applications for each credit allowed in this Article.

7 (2) The number and enterprise tier area of new jobs with respect to which
8 credits were applied for.

9 (3) The cost of tourism property with respect to which credits were
10 applied for.

11 (4) The number of new jobs created within development zones and the
12 percentage of those jobs that were filled by residents of the zones.

13 **"§ 105-129.46. Substantiation.**

14 (a) To claim a credit allowed by this Article, the taxpayer must provide any
15 information required by the Secretary of Revenue. Every taxpayer claiming a credit
16 under this Article must maintain and make available for inspection by the Secretary of
17 Revenue any records the Secretary considers necessary to determine and verify the
18 amount of the credit to which the taxpayer is entitled. The burden of proving eligibility
19 for the credit and the amount of the credit is on the taxpayer, and no credit is allowed to
20 a taxpayer that fails to maintain adequate records or to make them available for
21 inspection.

22 (b) Each taxpayer must provide with the tax return qualifying information for
23 each credit claimed under this Article for the first taxable year the credit is claimed and
24 for every year in which a subsequent installment or a carryforward of that credit is
25 claimed. The qualifying information must be in the form prescribed by the Secretary,
26 must cover each taxable year beginning with the first taxable year the credit is claimed,
27 and must be signed and affirmed by the individual who signs the taxpayer's tax return.
28 The information required by this subsection is information demonstrating that the
29 taxpayer has met the conditions for qualifying for an initial credit and any installments
30 and carryforwards and includes the following:

31 (1) The physical location of the jobs and investment with respect to which
32 the credit is claimed, including the enterprise tier designation of the
33 location and whether it is in a development zone. In addition, for each
34 individual who fills a job at a location with respect to which a credit is
35 claimed, the place where the individual resided before taking the job,
36 including any enterprise tier or development zone designation of that
37 place.

38 (2) The type of business with respect to which the credit is claimed, as
39 required by G.S. 105-129.43(a), and wage information described in
40 G.S. 105-129.43(b).

41 (3) Qualifying information required for the credit for creating tourism jobs
42 and the tourism investment credit allowed under this Article.

1 "§ 105-129.47. Credit for creating tourism jobs.

2 (a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S.
3 105-129.43, has five or more full-time employees, and hires an additional full-time
4 employee during the taxable year to fill a position located in an enterprise tier one, two,
5 or three area or in a development zone is allowed a credit for creating a new full-time
6 job. The amount of the credit for each new full-time job created is set out in the table
7 below and is based on the enterprise tier of the area in which the position is located. In
8 addition, if the position is located in a development zone, the amount of the credit is
9 increased by four thousand dollars (\$4,000) per job.

<u>Area Enterprise Tier</u>	<u>Amount of Credit</u>
<u>Tier One</u>	<u>\$12,500</u>
<u>Tier Two</u>	<u>4,000</u>
<u>Tier Three</u>	<u>3,000</u>
<u>Tier Four</u>	<u>-0-</u>
<u>Tier Five</u>	<u>-0-</u>

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

23 If, in one of the four years in which the installment of a credit accrues, the number of
24 the taxpayer's full-time employees falls below the number of full-time employees the
25 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires,
26 and the taxpayer may not take any remaining installment of the credit. The taxpayer
27 may, however, take the portion of an installment that accrued in a previous year and was
28 carried forward to the extent permitted under G.S. 105-129.44.

29 Jobs transferred from one area in the State to another area in the State are not new
30 jobs for purposes of this section. If, in one of the four years in which the installment of a
31 credit accrues, the position filled by the employee is moved to an area in a higher- or
32 lower-numbered enterprise tier or is moved from a development zone to an area that is
33 not a development zone, the remaining installments of the credit must be calculated as if
34 the position had been created initially in the area to which it was moved.

35 (b) Planned Expansion. – A taxpayer that signs a letter of commitment with the
36 Department of Commerce to create at least 20 new full-time jobs in a specific area
37 within two years after the date the letter is signed qualifies for the credit in the amount
38 allowed by this section based on the area's enterprise tier and development zone
39 designation for that year even though the employees are not hired that year. The credit is
40 available in the taxable year after at least 20 employees have been hired if the hirings
41 are within the two-year commitment period. The conditions outlined in subsection (a) of
42 this section apply to a credit taken under this subsection except that if the area is

1 redesignated to a higher-numbered enterprise tier or loses its development zone
2 designation after the year the letter of commitment was signed, the credit is allowed
3 based on the area's enterprise tier and development zone designation for the year the
4 letter was signed. If the taxpayer does not hire the employees within the two-year
5 period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies
6 for a credit under subsection (a) of this section in the year any new employees are hired,
7 the taxpayer may take the credit under that subsection.

8 **"§ 105-129.48. Credit for tourism investment.**

9 (a) Credit. – If a taxpayer that has purchased or leased eligible tourism property
10 places it in service in an enterprise tier one, two, or three area during the taxable year,
11 the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible
12 investment amount over the applicable threshold. For the purpose of this section, a
13 development zone is considered an enterprise tier one area. Tourism property is eligible
14 if it is capitalized by the taxpayer for tax purposes under the Code and not leased to
15 another party. The credit may not be taken for the taxable year in which the property is
16 placed in service but must be taken in equal installments over the seven years following
17 the taxable year in which it is placed in service.

18 (b) Eligible Investment Amount. – The eligible investment amount is the lesser
19 of (i) the cost of the eligible tourism property and (ii) the amount by which the cost of
20 all of the taxpayer's eligible tourism property that is in service in this State on the last
21 day of the taxable year exceeds the cost of all of the taxpayer's eligible tourism property
22 that was in service in this State on the last day of the base year. The base year is that
23 year, of the three immediately preceding taxable years, in which the taxpayer had the
24 most eligible tourism property in service in this State. A taxpayer that claims a credit
25 under this section must include with the application for certification required under G.S.
26 105-129.45 specific documentation supporting the taxpayer's calculation of the eligible
27 investment amount under this subsection.

28 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
29 following table based on the enterprise tier of the area where the eligible tourism
30 property is placed in service during the taxable year. If the taxpayer places eligible
31 tourism property in service in more than one county during the taxable year, the
32 threshold applies separately to the eligible tourism property placed in service in each
33 county. If the taxpayer places eligible tourism property in service in a county over the
34 course of a two-year period, the applicable threshold for the second taxable year is
35 reduced by the eligible investment amount for the previous taxable year.

<u>Area Enterprise Tier</u>	<u>Threshold</u>
<u>Tier One</u>	<u>\$ -0-</u>
<u>Tier Two</u>	<u>100,000</u>
<u>Tier Three</u>	<u>200,000</u>

40 (d) Expiration. – If, in one of the seven years in which the installment of a credit
41 accrues, the tourism property with respect to which the credit was claimed is disposed
42 of, taken out of service, or moved to an area that is not an enterprise tier one, two, or

1 three area, the credit expires, and the taxpayer may not take any remaining installment
2 of the credit for that tourism property unless the cost of that tourism property is offset in
3 the same taxable year by the taxpayer's new investment in eligible tourism property
4 placed in service in the same enterprise tier, as provided in this subsection. If, during the
5 taxable year the taxpayer disposed of the tourism property for which installments
6 remain, there has been a net reduction in the cost of all the taxpayer's eligible tourism
7 property that is in service in the same enterprise tier as the tourism property that was
8 disposed of, and the amount of this reduction is greater than twenty percent (20%) of the
9 cost of the tourism property that was disposed of, then the taxpayer forfeits the
10 remaining installments of the credit for the tourism property that was disposed of. If the
11 amount of the net reduction is equal to twenty percent (20%) or less of the cost of the
12 tourism property that was disposed of, or if there is no net reduction, then the taxpayer
13 does not forfeit the remaining installments of the expired credit. In determining the
14 amount of any net reduction during the taxable year, the cost of tourism property the
15 taxpayer placed in service during the taxable year and for which the taxpayer claims a
16 credit under Article 3B of this Chapter may not be included in the cost of all the
17 taxpayer's eligible tourism property that is in service. If in a single taxable year tourism
18 property with respect to two or more credits in the same tier is disposed of, the net
19 reduction in the cost of all the taxpayer's eligible tourism property that is in service in
20 the same tier is compared to the total cost of all the tourism property for which credits
21 expired in order to determine whether the remaining installments of the credits are
22 forfeited.

23 The expiration of a credit does not prevent the taxpayer from taking the portion of an
24 installment that accrued in a previous year and was carried forward to the extent
25 permitted under G.S. 105-129.44.

26 If, in one of the seven years in which the installment of a credit accrues, the tourism
27 property with respect to which the credit was claimed is moved to a higher-numbered
28 enterprise tier area, the remaining installments of the credit are allowed only to the
29 extent they would have been allowed if the tourism property had been placed in service
30 initially in the area to which it was moved.

31 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the
32 Department of Commerce to place specific eligible tourism property in service in an
33 area within two years after the date the letter is signed may, in the year the eligible
34 tourism property is placed in service in that area, calculate the credit for which the
35 taxpayer qualifies based on the area's enterprise tier designation for the year the letter
36 was signed. All other conditions apply to the credit, but if the area has been
37 redesignated to a higher-numbered enterprise tier after the year the letter of commitment
38 was signed, the credit is allowed based on the area's enterprise tier for the year the letter
39 was signed. If the taxpayer does not place part or all of the specified eligible tourism
40 property in service within the two-year period, the taxpayer does not qualify for the
41 benefit of this subsection with respect to the tourism property not placed in service
42 within the two-year period. However, if the taxpayer qualifies for a credit in the year the

1 eligible tourism property is placed in service, the taxpayer may take the credit for that
2 year as if no letter of commitment had been signed pursuant to this subsection."

3 **SECTION 2.** G.S. 105-129.16(c) reads as rewritten:

4 "(c) No Double Credit. – A taxpayer that claims ~~the~~ a credit allowed under Article
5 3A or Article 3E of this Chapter with respect to business property may not take the
6 credit allowed in this section with respect to the same property. A taxpayer may not take
7 the credit allowed in this section for business property the taxpayer leases from another
8 unless the taxpayer obtains the lessor's written certification that the lessor will not
9 capitalize the property for tax purposes under the Code and the lessor will not claim the
10 credit allowed in this section with respect to the property."

11 **SECTION 3.** Chapter 143B of the General Statutes is amended by adding a
12 new section to read:

13 **"§ 143B-434.3. Travel and Tourism Capital Incentive Grant Program.**

14 (a) There is established in the Department of Commerce the Travel and Tourism
15 Capital Incentive Grant Program. Grant funds shall be allocated to local government
16 units for the purpose of inducing the creation of new or the expansion or renovation of
17 existing travel and tourism qualified projects. Grants shall be made available to city and
18 county governments that provide public funding, in whole or in part, that directly
19 supports a qualified tourism project. Grant funds shall be used only for the support of
20 qualified tourism projects. The Department of Commerce shall adopt rules for the
21 administration of the program. The rules shall include the following provisions:

22 (1) Local government units may apply to the Department of Commerce
23 for Travel and Tourism Capital Incentive Grants no sooner than one
24 year after the qualified tourism project is opened to the public and no
25 later than five years after it is opened to the public. The application
26 shall contain all necessary information regarding the nature and cost of
27 the tourism project, the estimated revenues to be generated by the
28 project, the estimated economic benefit to the community, and the
29 purposes for which the local government unit will use the grant funds.

30 (2) Local government units may enter into agreements with private
31 investors to develop new or expand or renovate existing tourism
32 projects. If the tourism project is the result of a public private
33 partnership, the grant application shall set forth in detail the respective
34 rights and obligations of the parties and the specific terms of the
35 agreement.

36 (3) A qualified tourism project must meet the following conditions:

37 a. The project will attract at least twenty-five percent (25%) of its
38 visitors from among persons who reside more than 100 miles
39 from the tourism project;

40 b. The project will have a profitable business plan and once
41 opened must demonstrate profitability within three years;

c. The project must have impact projections regarding estimated State and local tax revenues;

d. The project will have a significant and positive impact on the community, considering among other factors, the extent to which the tourism project will compete directly with existing tourism attractions in the area and the amount by which tax revenues from the tourism project will exceed the amount of the grant provided to the local government unit;

e. The project will produce sufficient revenues and public demand to be operating and open to the public for a minimum of 100 days per year;

f. The project will generate at least 10 new jobs in the local area.

g. The project will have a minimum cost based on the following:

<u>Enterprise Tier</u>	<u>Minimum Cost</u>
<u>1 and 2:</u>	<u>one million dollars</u>
	<u>(\$1,000,000);</u>
<u>3 and 4</u>	<u>fifteen million dollars</u>
	<u>(\$15,000,000);</u>
<u>5</u>	<u>thirty million dollars</u>
	<u>(\$30,000,000).</u>

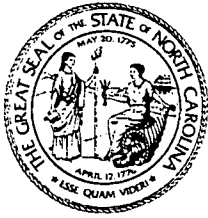
(b) The amount of each grant shall be determined as an amount equal to a percentage of the total amount of the following taxes generated by the qualified tourism project: (i) the net State sales tax collected by the qualified tourism project, in accordance with Article 5 of Chapter 105 of the General Statutes, (ii) the net privilege tax paid by a qualified tourism project in accordance with G.S. 105-37.1, and (iii) the amount withheld from the wages of each employee of the qualified tourism project, in accordance with G.S. 105-163.2. The percentage shall vary depending on the enterprise tier, as defined in G.S. 105-129.3, in which the qualified tourism project is located. If the project is located in a tier one or two county, the local government unit is eligible for a grant in an amount equal to no more than thirty-five percent (35%) of the eligible taxes generated by the project. If the project is located in a tier three or four county, the local government unit is eligible for a grant in an amount equal to no more than thirty percent (30%) of the eligible taxes generated by the project. If the project is located in a tier five county, the local government unit is eligible for a grant in an amount equal to no more than twenty-five percent (25%) of the eligible taxes generated by the project.

(c) The Department of Commerce may reserve and allocate up to ten percent (10%) of the funds available to the Travel and Tourism Capital Incentive Grant Program to State and local administrative costs to implement the Program.

(d) The Department of Commerce shall report annually to the General Assembly concerning the applications made to the fund and the payments made from the fund. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the

1 General Assembly on the use of moneys in the fund, including information regarding to
2 whom payments were made, in what amounts, and for what purposes."

3 **SECTION 4.** This act becomes effective for taxable years beginning on or
4 after January 1, 2002, and Sections 1 of this act shall expire on January 1, 2008.
5



HOUSE BILL 1110: North Carolina Tourism Development Act.

BILL ANALYSIS

Committee: Travel and Tourism
Date: May 21, 2001
Version: First Edition

Introduced by: Rep. Earle
Summary by: Karen Cochrane Brown
Staff Attorney

SUMMARY:

House Bill 1110 proposes two new programs to provide incentives for capital tourism projects. The first program is modeled after the William S. Lee Quality Jobs and Business Expansion Act. Under this program, eligible tourism businesses could receive tax credits for creating new jobs and for investment in tourism property, located in a tier one, two, or three county or in a development zone. The second is the Travel and Tourism Capital Incentive Grant Program. This program authorizes the allocation of grant funds to local governments for the purpose of inducing the creation of new or the expansion or renovation of existing tourism projects.

BILL ANALYSIS:

Section 1. - This bill adds a new Article 3E to Chapter 105 of the General Statutes, to be entitled "Tax Incentives For New And Expanding Tourism Businesses". The article would apply to tourism "attractors", or businesses that draw tourist to a local area for one or more days, such as museums, amusement parks and facilities that promote local crafts.

Eligibility

In order to be eligible for tax credits, the business must be located in an enterprise tier one, two, or three area or in a development zone. These designations are borrowed from the William S. Lee Act. Each year the Secretary of Commerce assigns each county in the State an enterprise tier designation, using the county's ranking in unemployment, per capita income, and growth in population. Development zones are census tracts or census block groups, located within a city, which meets certain specified criteria relating to population and the percentage of the population that is below the poverty level.

In addition, in order to be eligible, the business must meet the wage standard, which is a formula for assuring that the jobs created by the business will pay as well as or better than jobs currently existing in the county or zone. The business also must provide health insurance to its employees, and must certify that it has no environmental or OSHA violations.

Tax Election

An eligible business may take the credits against one of the following taxes: 1) the franchise tax, 2) the income tax, or 3) the gross premiums tax. The business must make an election when the credit is first claimed. The election is binding and any carryforwards of the credit must be claimed against the same tax. The credits may not exceed 50% of the tax for that year, reduced by any other credits claimed. Any unused portion of the credit can be carried forward for the next five years.

HOUSE BILL 1110

Page 2

Application

To claim the credit, a business must apply to the Secretary of Commerce for certification that the business meets all of the eligibility requirements. If the business is not located in a tier one or two area, the business must pay an application fee of \$500.00 for each credit claimed, up to \$1,500.00. The fee is divided between the Commerce Department and the Revenue Department to cover the cost of administering the program.

Credit for creating tourism jobs.

An eligible business that employs at least five full-time employees and hires another employee in an eligible location may claim a tax credit for creating the new full-time job. The amount of the credit varies depending on whether the job is located in a tier one, two, or three area. The amount of the credit is increased by \$4,000.00 if the position is located in a development zone. The credit may not be taken in the first year, but must be taken in equal installments over the next four years, provided the business maintains the same number of employees.

Credit for tourism investment.

A business that purchases or leases eligible tourism property in a tier one, two, or three area is allowed to take a tax credit for the investment. Tourism property is defined as buildings, machinery and equipment, furniture or fixtures used in business as an attractor or associated attractor. The amount of the credit is 7% of the excess of the eligible investment amount over the applicable threshold. The threshold varies depending on the enterprise tier in which the property is located. The credit cannot be taken in the first year, but must be taken in equal installments over the next seven years. If the property is taken out of service during the seven years, the credit will expire.

Section 2. - No double credit.

The credits authorized by this bill are very similar to those currently available under the William S. Lee Act. This section contains a provision to insure that no business could obtain credits under both acts for the same jobs or property.

Section 3. - Travel and Tourism Capital Incentive Grant Program.

This section of the bill creates a new grant program, which would allocate grant funds to eligible local government units to induce the creation of new or the expansion or renovation of existing tourism projects. To be eligible for the grants, local governments must provide public funding to support a qualified tourism project. The program would be administered by the Department of Commerce under the following conditions:

1. Grant applications may be accepted no sooner than one year and no later than five years after a qualified tourism project is opened to the public.

HOUSE BILL 1110

Page 3

2. Local governments may enter into public/private partnerships to develop a qualified tourism project.
3. A qualified tourism project must meet the following conditions:
 - Attract at least 25% of its visitors from more than 100 miles away from the project.
 - Have a profitable business plan and demonstrate profitability within 3 years.
 - Have impact projections regarding estimated State and local tax revenues.
 - Have a significant and positive impact on the community.
 - Be open to the public for a minimum of 100 days per year.
 - Create at least ten new jobs in the local area.
 - Have a minimum cost of between one million dollars and thirty million dollars depending on the enterprise tier in which the project is located.

The amount of each grant is determined as a percentage of certain enumerated taxes generated by the qualified tourism project. The taxes included are State sales tax, privilege tax, and withholdings from the wages of employees. The percentage varies depending on the enterprise tier in which the project is located. If the project is in a tier 1 or 2 area, the grant could equal up to 35% of the eligible taxes generated. If the project is in a tier 3 or 4 area, the grant could equal up to 30% of the eligible taxes, and if the project is in a tier 5 area, the grant could equal up to 25% of the eligible taxes generated by the project.

The Department of Commerce is authorized to reserve up to ten percent of the funds available to the program for the administrative costs of implementing the program.

The Department is also required to report to the General Assembly annually, and to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division quarterly on the use of the moneys in the fund.

Section 4. This act would become effective for taxable years beginning on or after January 1, 2002.

VISITOR REGISTRATION SHEET

TRAVEL & TOURISM

MAY 23, 2001

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jim Hobbs	NCHMA
Teresa Watts	NC Div of Tourism, Film, & Sports Development
Carole Lawler	EGHS
Lynn Minges	NC Div of Tourism, Film & Sports
Mary Carlin	REBIC
Eddie Caldwell	NCHMA
Mark Bussan	Capital Treasures
St. Dickinson	NC DOC
Sharman Thornton	McDonald's Corp.
Bill ^{mayor} BARBARA HARRIS	EMERALD ISLE, NC
Harry Simmons	Town of Caswell Beach

VISITOR REGISTRATION SHEET

TRAVEL & TOURISM

MAY 23, 2001

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

ELLIS HANKIN

NCLM

Kay Saintsing

N.C. Association of Festivals & Events

HOUSE TRAVEL AND TOURISM COMMITTEE

AGENDA

Wednesday, May 30, 2001
Room 415 Legislative Office Building
10:00 A.M.

OPENING REMARKS

**Representative Dan Barefoot, Chairman Presiding
Travel and Tourism Committee**

1. CALL TO ORDER

11. WELCOME

111 INTRODUCTIONS

**1V. HB 1110 - NORTH CAROLINA TOURISM DEVELOPMENT ACT
Representative Beverly Earle, Sponsor**

V. COMMENTS

VI. ADJOURN

HOUSE COMMITTEE ON TRAVEL AND TOURISM

Minutes
May 30, 2001
Room 415

The House Committee on Travel and Tourism met at 10:00 a.m. on Wednesday, May 30, 2001 in Room 415 of the Legislative Office Building, Raleigh, NC.

Members present included Reps. Earle, Fox, Jeffus, Owens, Preston, Rayfield, Shubert, and Weatherly. Rep. Barefoot, Chairman, presided. Karen Cochrane Brown, Staff Counsel was also present. A visitor Registration Sheet is attached and made a part of the minutes.

Chairman Barefoot called the meeting to order, welcomed the visitors to the meeting and introduced the pages to the members. He recognized and welcomed former House Representative W. W. "Dub" Dickson from Gastonia, NC. Mr. Barefoot then announced that Co-Chairman "Junior" Teague was taken to the hospital for medical attention.

The Chairman informed the committee that Proposed Committee Substitute for **House Bill 1110 (North Carolina Tourism Development Act)** (Attachment I) was adopted at the last meeting and is now before the committee for further discussion.

Rep. Earle explained and distributed the legislative fiscal note. Rep. Earle explained to the members that this bill provides tax incentives for capital tourism projects in tier one, two, and three counties, and creates a Travel and Tourism Capital Incentive Grant Program. Rep. Earle further explained that the staff in fiscal research was unable to complete a fiscal note on the whole bill but did it on the grant portion. She also explained that this bill creates a Travel and Tourism Capital Incentive Program in the Department of Commerce for the purpose of inducing new travel and tourism projects or for the expansion or renovation of existing projects. (Attachment II). Discussion followed.

Chairman Barefoot opened the floor for questions and discussion. Rep. Weatherly asked could a restaurant business add employees in order to receive credit? Rep. Earle answered No; this bill does not do that. She added that the industry did not want that in this bill and that this bill does not address everyone's needs.

Rep. Owens expressed concerns about the different tiers and wanted to make sure that the rural counties would be equally represented and considered in the zones. He further expressed that he has some concerns about this bill. Rep. Earle responded that there are guidelines as to employing a certain number of people from a certain area.

At this time Chairman Barefoot asked if any of the visitors wished to make any comments. Jonathan Tart, an administrative officer for the Department of Revenue, responded that as far as the job credits go there are no requirements as to where someone resides.

Natalie English with the Charlotte Chamber of Commerce stated that Charlotte does have an understanding as to creating and employing people from the that area. Discussion followed.

Rep. Rayfield stated that although he is not against the bill he has concerns with it. His concerns were with the fact that the bill did not have a fiscal note indicating where would the funds come from? Rep. Earle responded it would be generating the attraction coming from the sales tax, privilege tax and/or payroll taxes that are generated. Rep. Rayfield further stated that he had a concern that existing businesses would have the door slammed in their face and are not qualified by this bill. Rep. Earle emphasized that this bill does not specifically speak to the Hotel and Restaurant Industry.

Rep. Jeffus stated that this bill has been studied extensively and it still has to go to the Finance Committee. Rep. Jeffus moved to give the Proposed Committee Substitute for House Bill 1110 a favorable report, unfavorable to original, and committee substitute bill be re-referred to Finance.

Rep. Preston noted that Rep. Earle earlier mentioned that the Hotel and Restaurant Industry chose not to be considered in this bill. Rep. Preston asked if someone from the industry could explain the reasoning behind the decision. Jim Hobbs with the North Carolina Hotel/Motel Association stated that the industry strongly supports this bill. Discussion followed.

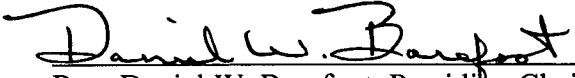
Jerry Williams with the North Carolina Restaurant Association stated that the budget situation in North Carolina had a great deal to do with their decision not to be included in this bill. Concerns about the existing restaurants not being treated accordingly also were a major concern. Discussion followed.

Rep. Owens asked if Rep. Earle would consider an amendment that would in tier 4 or 5 counties get tax credit for people who live in that zone. Rep. Earle responded that she did not want to do anything that would derail this bill. She would rather not bother the bill with an amendment.

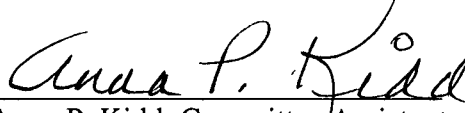
Rep. Shubert stated that she realized this bill would be going to the Finance Committee and stop there. She expressed that this is a bad tax policy. She further stated this would be making a major change in tax policy by putting these grants in place.

Chairman Barefoot asked for a vote on the motion on the floor. Motion carried. There was one NO vote by Rep. Shubert.

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


Rep. Daniel W. Barefoot, Presiding Chair


Rep. W.B. "Junior" Teague, Chair


Anna P. Kidd, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

D

HOUSE BILL 1110
PROPOSED COMMITTEE SUBSTITUTE H1110-PCS6295-RO-21

Short Title: North Carolina Tourism Development Act.

(Public)

Sponsors:

Referred to:

April 11, 2001

A BILL TO BE ENTITLED
AN ACT TO PROVIDE TAX INCENTIVES FOR CAPITAL TOURISM PROJECTS
IN TIER ONE, TWO, AND THREE COUNTIES, AND TO CREATE THE
TRAVEL AND TOURISM CAPITAL INCENTIVE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a
new Article to read:

"Article 3E.

"Tax Incentives For New And Expanding Tourism Businesses.

"§ 105-129.41. Definitions.

The following definitions apply in this Article:

- (1) Attractor. – A tourism facility that draws tourists to the local area for one or more days on its own merits, is designed primarily to attract tourists rather than local residents, and invests its own capital to market its products and services. Examples of attractors include museums, downtown areas, amusement parks, and facilities that promote local crafts.
- (2) Cost. – Defined in G.S. 105-129.2.
- (3) Development zone. – Defined in G.S. 105-129.2.
- (4) Enterprise tier. – Defined in G.S. 105-129.2.
- (5) Full-time job. – Defined in G.S. 105-129.2.
- (6) Machinery and equipment. – Defined in G.S. 105-129.2.
- (7) NAICS. – Defined in G.S. 105-129.2.
- (8) Purchase. – Defined in G.S. 105-129.2.
- (9) Tourism facility. – A facility that attracts tourists from more than 100 miles away to the local area where they spend money on lodging, food, and entertainment.
- (10) Tourism property. – Buildings, machinery and equipment, furniture, or fixtures used in engaging in business as an attractor.

1 "§ 105-129.42. Sunset; no double credit.

2 (a) Sunset. – This Article is repealed effective for applications for credits filed on
3 or after January 1, 2008.

4 (b) No Double Credit. – A taxpayer that takes a credit under this Article with
5 respect to jobs or property is not allowed a credit under any other Article of this Chapter
6 with respect to the same jobs or property.

7 "§ 105-129.43. Eligibility; forfeiture.

8 (a) Type of Business. – A taxpayer is eligible for a credit allowed by this Article
9 if the taxpayer is engaged in business primarily as an attractor, the jobs with respect to
10 which a credit is claimed are created in that business, and the tourism property with
11 respect to which a credit is claimed are used in that business.

12 (b) Wage Standard. – A taxpayer is eligible for a credit allowed by this Article if
13 the jobs at the location with respect to which the credit is claimed meet the wage
14 standard provided in G.S. 105-129.4(b) at the time the taxpayer applies for the credit.

15 (c) Location. – A taxpayer is eligible for a credit allowed by this Article if the
16 location with respect to which the credit is claimed is in an enterprise tier one, two, or
17 three area or is in a development zone.

18 (d) Health Insurance. – A taxpayer is eligible for the credit for creating tourism
19 jobs under this Article if the taxpayer provides health insurance for the positions for
20 which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is
21 eligible for the tourism investment credit under this Article if the taxpayer provides
22 health insurance for all of the full-time positions at the location with respect to which
23 the credit is claimed at the time the taxpayer applies for the credit. For the purposes of
24 this subsection, a taxpayer provides health insurance if the taxpayer pays at least fifty
25 percent (50%) of the premiums for health care coverage that equals or exceeds the
26 minimum provisions of the basic health care plan of coverage recommended by the
27 Small Employer Carrier Committee pursuant to G.S. 58-50-125.

28 Each year that a taxpayer claims an installment or carryforward of a credit allowed
29 under this Article the taxpayer must provide with the tax return the taxpayer's
30 certification that the taxpayer continues to provide health insurance for the jobs for
31 which the credit was claimed or the full-time jobs at the location with respect to which
32 the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs
33 during a taxable year, the credit expires and the taxpayer may not take any remaining
34 installment or carryforward of the credit.

35 (e) Environmental Impact. – A taxpayer is eligible for a credit allowed under this
36 Article only if the taxpayer certifies that, at the time the taxpayer applies for the credit,
37 the taxpayer has no pending administrative, civil, or criminal enforcement action based
38 on alleged significant violations of any program implemented by an agency of the
39 Department of Environment and Natural Resources and has had no final determination
40 of responsibility for any significant administrative, civil, or criminal violation of any
41 program implemented by an agency of the Department of Environment and Natural
42 Resources within the last five years. A significant violation is a violation or alleged

1 violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The
2 Secretary of Commerce will provide the Department of Environment and Natural
3 Resources a list of all taxpayers making this certification. The Department of
4 Environment and Natural Resources may conduct random audit checks to verify
5 taxpayers' certifications. The Department of Environment and Natural Resources must
6 notify the Department of Revenue of any taxpayer certifications it determines are not
7 accurate.

8 (f) Safety and Health Programs. – A taxpayer is eligible for a credit allowed
9 under this Article only if the taxpayer certifies that, as of the time the taxpayer applies
10 for the credit, at the business location with respect to which the credit is claimed, the
11 taxpayer has no outstanding citations under the Occupational Safety and Health Act and
12 has had no serious violation as defined in G.S. 95-127 within the last three years. The
13 Secretary of Commerce will provide the Department of Labor a list of all taxpayers
14 making this certification. The Department of Labor may conduct random audit checks
15 to verify taxpayers' certifications. The Department of Labor must notify the Department
16 of Revenue of any taxpayer certifications it determines are not accurate.

17 (g) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
18 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A
19 taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a
20 result of the credit plus interest at the rate established under G.S. 105-241.1(i) computed
21 from the date the taxes would have been due if the credit had not been allowed. The past
22 taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that
23 fails to pay the past taxes and interest by the due date is subject to the penalties provided
24 in G.S. 105-236.

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

32 **"§ 105-129.44. Tax election; cap.**

33 (a) Tax Election. – The credits provided in this Article are allowed against the
34 franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of
35 this Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The
36 taxpayer must take a credit allowed under this Article against only one of the taxes
37 against which it is allowed. The taxpayer must elect the tax against which a credit will
38 be claimed when filing the return on which the first installment of the credit is claimed.
39 This election is binding. Any carryforwards of the credit must be claimed against the
40 same tax.

41 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
42 (50%) of the tax against which they are claimed for the taxable year, reduced by the

1 sum of all other credits allowed against that tax, except tax payments made by or on
2 behalf of the taxpayer. This limitation applies to the cumulative amount of credit,
3 including carryforwards, claimed by the taxpayer under this Article and Articles 3A and
4 3B of this Chapter against each tax for the taxable year. Any unused portion of a credit
5 may be carried forward for the succeeding five years.

6 **"§ 105-129.45. Application; reports.**

7 (a) Application. – To claim a credit allowed by this Article, the taxpayer must
8 provide with the tax return the certification of the Secretary of Commerce that the
9 taxpayer meets all of the eligibility requirements of G.S. 105-129.43 with respect to
10 each credit. A taxpayer must apply to the Secretary of Commerce for certification of
11 eligibility. The application must be on a form provided by the Secretary of Commerce
12 and contain any information necessary for the Secretary of Commerce to determine
13 whether the taxpayer meets the eligibility requirements. In addition, the application
14 must state the number of full-time jobs to be created that are located within a
15 development zone, the number of full-time jobs to be created that are expected to be
16 filled by employees residing within the development zone, and the number of full-time
17 jobs to be created that are expected to be filled by employees residing within a census
18 tract or census block group that has more than twenty percent (20%) of its population
19 below the poverty level according to the most recent federal decennial census.

20 If the Secretary of Commerce determines that the taxpayer meets all of the eligibility
21 requirements of G.S. 105-129.43 with respect to a credit, the Secretary must issue a
22 certificate describing the location with respect to which the credit is claimed, outlining
23 the eligibility requirements for the credit and stating that the taxpayer meets the
24 eligibility requirements. If the Secretary of Commerce determines that the taxpayer does
25 not meet all of the eligibility requirements of G.S. 105-129.43 with respect to a credit,
26 the Secretary must advise the taxpayer in writing of the eligibility requirements the
27 taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with
28 Chapter 150B of the General Statutes that are needed to carry out the Secretary of
29 Commerce's responsibilities under this section.

30 (b) Fee. – When filing an application for certification under this section, the
31 taxpayer must pay the Department of Commerce a fee of five hundred dollars (\$500.00)
32 for each credit the taxpayer intends to claim with respect to a location that is not in an
33 enterprise zone or in an enterprise tier one or two area, subject to a maximum fee of one
34 thousand five hundred dollars (\$1,500) per taxpayer per taxable year. If the taxpayer
35 applies for certification for a credit that relates to locations in more than one enterprise
36 tier area, the fee is based on the highest-numbered enterprise tier area.

37 The Secretary of Commerce must retain one-fourth of the proceeds of the fee
38 imposed in this section for the costs of administering this section. The Secretary of
39 Commerce must credit the remaining proceeds of the fee imposed in this section to the
40 Department of Revenue for the costs of administering and auditing the credits allowed
41 in this Article. The proceeds of the fee are receipts of the Department to which they are
42 credited.

(c) Reports. – The Department of Commerce must report to the Department of Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

- (1) The number of applications for each credit allowed in this Article.
- (2) The number and enterprise tier area of new jobs with respect to which credits were applied for.
- (3) The cost of tourism property with respect to which credits were applied for.
- (4) The number of new jobs created within development zones and the percentage of those jobs that were filled by residents of the zones.

"§ 105-129.46. Substantiation.

(a) To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit is on the taxpayer, and no credit is allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(b) Each taxpayer must provide with the tax return qualifying information for each credit claimed under this Article for the first taxable year the credit is claimed and for every year in which a subsequent installment or a carryforward of that credit is claimed. The qualifying information must be in the form prescribed by the Secretary, must cover each taxable year beginning with the first taxable year the credit is claimed, and must be signed and affirmed by the individual who signs the taxpayer's tax return. The information required by this subsection is information demonstrating that the taxpayer has met the conditions for qualifying for an initial credit and any installments and carryforwards and includes the following:

- (1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier or development zone designation of that place.
- (2) The type of business with respect to which the credit is claimed, as required by G.S. 105-129.43(a), and wage information described in G.S. 105-129.43(b).
- (3) Qualifying information required for the credit for creating tourism jobs and the tourism investment credit allowed under this Article.

"§ 105-129.47. Credit for creating tourism jobs.

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.43, has five or more full-time employees, and hires an additional full-time employee during the taxable year to fill a position located in an enterprise tier one, two, or three area or in a development zone is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars (\$4,000) per job.

<u>Area Enterprise Tier</u>	<u>Amount of Credit</u>
<u>Tier One</u>	<u>\$12,500</u>
<u>Tier Two</u>	<u>4,000</u>
<u>Tier Three</u>	<u>3,000</u>
<u>Tier Four</u>	<u>-0-</u>
<u>Tier Five</u>	<u>-0-</u>

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

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires, and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.44.

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

(b) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to create at least 20 new full-time jobs in a specific area within two years after the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. The credit is available in the taxable year after at least 20 employees have been hired if the hirings are within the two-year commitment period. The conditions outlined in subsection (a) of this section apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone

1 designation after the year the letter of commitment was signed, the credit is allowed
2 based on the area's enterprise tier and development zone designation for the year the
3 letter was signed. If the taxpayer does not hire the employees within the two-year
4 period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies
5 for a credit under subsection (a) of this section in the year any new employees are hired,
6 the taxpayer may take the credit under that subsection.

7 **"§ 105-129.48. Credit for tourism investment.**

8 (a) Credit. – If a taxpayer that has purchased or leased eligible tourism property
9 places it in service in an enterprise tier one, two, or three area during the taxable year,
10 the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible
11 investment amount over the applicable threshold. For the purpose of this section, a
12 development zone is considered an enterprise tier one area. Tourism property is eligible
13 if it is capitalized by the taxpayer for tax purposes under the Code and not leased to
14 another party. The credit may not be taken for the taxable year in which the property is
15 placed in service but must be taken in equal installments over the seven years following
16 the taxable year in which it is placed in service.

17 (b) Eligible Investment Amount. – The eligible investment amount is the lesser
18 of (i) the cost of the eligible tourism property and (ii) the amount by which the cost of
19 all of the taxpayer's eligible tourism property that is in service in this State on the last
20 day of the taxable year exceeds the cost of all of the taxpayer's eligible tourism property
21 that was in service in this State on the last day of the base year. The base year is that
22 year, of the three immediately preceding taxable years, in which the taxpayer had the
23 most eligible tourism property in service in this State. A taxpayer that claims a credit
24 under this section must include with the application for certification required under G.S.
25 105-129.45 specific documentation supporting the taxpayer's calculation of the eligible
26 investment amount under this subsection.

27 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
28 following table based on the enterprise tier of the area where the eligible tourism
29 property is placed in service during the taxable year. If the taxpayer places eligible
30 tourism property in service in more than one county during the taxable year, the
31 threshold applies separately to the eligible tourism property placed in service in each
32 county. If the taxpayer places eligible tourism property in service in a county over the
33 course of a two-year period, the applicable threshold for the second taxable year is
34 reduced by the eligible investment amount for the previous taxable year.

<u>Area Enterprise Tier</u>	<u>Threshold</u>
<u>Tier One</u>	<u>\$ -0-</u>
<u>Tier Two</u>	<u>100,000</u>
<u>Tier Three</u>	<u>200,000</u>

39 (d) Expiration. – If, in one of the seven years in which the installment of a credit
40 accrues, the tourism property with respect to which the credit was claimed is disposed
41 of, taken out of service, or moved to an area that is not an enterprise tier one, two, or
42 three area, the credit expires, and the taxpayer may not take any remaining installment

1 of the credit for that tourism property unless the cost of that tourism property is offset in
2 the same taxable year by the taxpayer's new investment in eligible tourism property
3 placed in service in the same enterprise tier, as provided in this subsection. If, during the
4 taxable year the taxpayer disposed of the tourism property for which installments
5 remain there has been a net reduction in the cost of all the taxpayer's eligible tourism
6 property that is in service in the same enterprise tier as the tourism property that was
7 disposed of, and the amount of this reduction is greater than twenty percent (20%) of the
8 cost of the tourism property that was disposed of, then the taxpayer forfeits the
9 remaining installments of the credit for the tourism property that was disposed of. If the
10 amount of the net reduction is equal to twenty percent (20%) or less of the cost of the
11 tourism property that was disposed of, or if there is no net reduction, then the taxpayer
12 does not forfeit the remaining installments of the expired credit. In determining the
13 amount of any net reduction during the taxable year, the cost of tourism property the
14 taxpayer placed in service during the taxable year and for which the taxpayer claims a
15 credit under Article 3B of this Chapter may not be included in the cost of all the
16 taxpayer's eligible tourism property that is in service. If in a single taxable year tourism
17 property with respect to two or more credits in the same tier is disposed of, the net
18 reduction in the cost of all the taxpayer's eligible tourism property that is in service in
19 the same tier is compared to the total cost of all the tourism property for which credits
20 expired in order to determine whether the remaining installments of the credits are
21 forfeited.

22 The expiration of a credit does not prevent the taxpayer from taking the portion of an
23 installment that accrued in a previous year and was carried forward to the extent
24 permitted under G.S. 105-129.44.

25 If, in one of the seven years in which the installment of a credit accrues, the tourism
26 property with respect to which the credit was claimed is moved to a higher-numbered
27 enterprise tier area, the remaining installments of the credit are allowed only to the
28 extent they would have been allowed if the tourism property had been placed in service
29 initially in the area to which it was moved.

30 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the
31 Department of Commerce to place specific eligible tourism property in service in an
32 area within two years after the date the letter is signed may, in the year the eligible
33 tourism property is placed in service in that area, calculate the credit for which the
34 taxpayer qualifies based on the area's enterprise tier designation for the year the letter
35 was signed. All other conditions apply to the credit, but if the area has been
36 redesignated to a higher-numbered enterprise tier after the year the letter of commitment
37 was signed, the credit is allowed based on the area's enterprise tier for the year the letter
38 was signed. If the taxpayer does not place part or all of the specified eligible tourism
39 property in service within the two-year period, the taxpayer does not qualify for the
40 benefit of this subsection with respect to the tourism property not placed in service
41 within the two-year period. However, if the taxpayer qualifies for a credit in the year the

1 eligible tourism property is placed in service, the taxpayer may take the credit for that
2 year as if no letter of commitment had been signed pursuant to this subsection."

3 **SECTION 2.** G.S. 105-129.16(c) reads as rewritten:

4 "(c) No Double Credit. – A taxpayer that claims ~~the~~ a credit allowed under Article
5 3A or Article 3E of this Chapter with respect to business property may not take the
6 credit allowed in this section with respect to the same property. A taxpayer may not take
7 the credit allowed in this section for business property the taxpayer leases from another
8 unless the taxpayer obtains the lessor's written certification that the lessor will not
9 capitalize the property for tax purposes under the Code and the lessor will not claim the
10 credit allowed in this section with respect to the property."

11 **SECTION 3.** Chapter 143B of the General Statutes is amended by adding a
12 new section to read:

13 **"§ 143B-434.3. Travel and Tourism Capital Incentive Grant Program.**

14 (a) There is established in the Department of Commerce the Travel and Tourism
15 Capital Incentive Grant Program. Grant funds shall be allocated to local government
16 units for the purpose of inducing the creation of new or the expansion or renovation of
17 existing travel and tourism qualified projects. Grants shall be made available to city and
18 county governments that provide public funding, in whole or in part, that directly
19 supports a qualified tourism project. Grant funds shall be used only for the support of
20 qualified tourism projects. The Department of Commerce shall adopt rules for the
21 administration of the program. The rules shall include the following provisions:

22 (1) Local government units may apply to the Department of Commerce
23 for Travel and Tourism Capital Incentive Grants no sooner than one
24 year after the qualified tourism project is opened to the public and no
25 later than five years after it is opened to the public. The application
26 shall contain all necessary information regarding the nature and cost of
27 the tourism project, the estimated revenues to be generated by the
28 project, the estimated economic benefit to the community, and the
29 purposes for which the local government unit will use the grant funds.

30 (2) Local government units may enter into agreements with private
31 investors to develop new or expand or renovate existing tourism
32 projects. If the tourism project is the result of a public/private
33 partnership, the grant application shall set forth in detail the respective
34 rights and obligations of the parties and the specific terms of the
35 agreement.

36 (3) A qualified tourism project must meet the following conditions:

37 a. The project will attract at least twenty-five percent (25%) of its
38 visitors from among persons who reside more than 100 miles
39 from the tourism project;

40 b. The project will have a profitable business plan and once
41 opened must demonstrate profitability within three years;

- c. The project must have impact projections regarding estimated State and local tax revenues;
- d. The project will have a significant and positive impact on the community, considering among other factors the extent to which the tourism project will compete directly with existing tourism attractions in the area and the amount by which tax revenues from the tourism project will exceed the amount of the grant provided to the local government unit;
- e. The project will produce sufficient revenues and public demand to be operating and open to the public for a minimum of 100 days per year;
- f. The project will generate at least 10 new jobs in the local area; and
- g. The project will have a minimum cost based on the following:

<u>Enterprise Tier</u>	<u>Minimum Cost</u>
<u>1 and 2</u>	<u>one million dollars</u> <u>(\$1,000,000);</u>
<u>3 and 4</u>	<u>fifteen million dollars</u> <u>(\$15,000,000);</u>
<u>5</u>	<u>thirty million dollars</u> <u>(\$30,000,000).</u>

(b) The amount of each grant shall be determined as an amount equal to a percentage of the total amount of the following taxes generated by the qualified tourism project: (i) the net State sales tax collected by the qualified tourism project, in accordance with Article 5 of Chapter 105 of the General Statutes, (ii) the net privilege tax paid by a qualified tourism project in accordance with G.S. 105-37.1, and (iii) the amount withheld from the wages of each employee of the qualified tourism project, in accordance with G.S. 105-163.2. The percentage shall vary depending on the enterprise tier, as defined in G.S. 105-129.3, in which the qualified tourism project is located. If the project is located in a tier one or two county, the local government unit is eligible for a grant in an amount equal to no more than thirty-five percent (35%) of the eligible taxes generated by the project. If the project is located in a tier three or four county, the local government unit is eligible for a grant in an amount equal to no more than thirty percent (30%) of the eligible taxes generated by the project. If the project is located in a tier five county, the local government unit is eligible for a grant in an amount equal to no more than twenty-five percent (25%) of the eligible taxes generated by the project.

(c) The Department of Commerce may reserve and allocate up to ten percent (10%) of the funds available to the Travel and Tourism Capital Incentive Grant Program to State and local administrative costs to implement the Program.

(d) The Department of Commerce shall report annually to the General Assembly concerning the applications made to the fund and the payments made from the fund. The Department of Commerce shall also report quarterly to the Joint Legislative

1 Commission on Governmental Operations and the Fiscal Research Division of the
2 General Assembly on the use of moneys in the fund, including information regarding to
3 whom payments were made, in what amounts, and for what purposes."

4 **SECTION 4.** This act becomes effective for taxable years beginning on or
5 after January 1, 2002, and Section 1 of this act expires January 1, 2008.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1110 (1st Edition)

SHORT TITLE: North Carolina Tourism Development Act

SPONSOR(S): Representatives Earle, Barefoot, Rogers

FISCAL IMPACT

Yes ()

No ()

No Estimate Available (X)

FY 2001-02

FY 2002-03

FY 2003-04

FY 2004-05

FY 2005-06

REVENUES:

EXPENDITURES:

No Estimate Available

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Commerce

EFFECTIVE DATE:

BILL SUMMARY: This bill provides tax incentives for capital tourism projects in tier one, two, and three counties, and creates a Travel and Tourism Capital Incentive Grant Program.

ASSUMPTIONS AND METHODOLOGY:

Tax Incentives for New and Expanding Tourism Businesses:

Travel and Tourism Capital Incentive Grant Program: The bill creates a Travel and Tourism Capital Incentive Program in the Department of Commerce for the purpose of inducing new travel and tourism projects or for the expansion or renovation of existing projects. The bill also directs that the grant funds can only be used to support "qualified tourism projects" and that only local governments are eligible to receive the grants.

A "qualified tourism project" is defined in the bill as having to meet certain conditions. The bill further specifies that the amount of the grant award will be determined based on the total amount of the following taxes generated by the "qualified tourism project:" 1) the net State sales tax collected, 2) the net privilege tax paid, and 3) the amount withheld from the wages of each employee of the "qualified tourism project." If the project is located in a tier one or

two county, the local government is eligible for a grant in an amount equal to no more than 35 percent of the eligible taxes generated by the project. If the project is located in a tier three or four county, the local government is eligible for a grant in an amount equal to no more than 30 percent of the eligible taxes generated by the project. If the project is located in a tier five county, the local government is eligible for a grant in an amount equal to no more than 25 percent of the eligible taxes generated by the project.

The amount of money necessary to capitalize the program is dependent on the number of projects that would meet the conditions of a "qualified tourism project," the amount of the taxes those projects would generate in their respective communities, and location of the project in one of the five tier designated counties. According to the Department of Commerce, this information is not available. In addition, the definition of "qualified tourism project" is so broad as to capture projects that the Department would not include in their definition of a tourism project making it very difficult to develop a reliable estimate. As a result, no estimate is available for the amount of money necessary to capitalize the grant program.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: David Crotts and Jennifer Hoffmann

APPROVED BY:

DATE:

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative(s) **Barefoot and Teague** (Chairs) for the Committee on **TRAVEL AND TOURISM**.

☐ Committee Substitute for

H.B. 1110 A BILL TO BE ENTITLED AN ACT TO PROVIDE TAX INCENTIVES FOR CAPITAL TOURISM PROJECTS IN TIER ONE, TWO, AND THREE COUNTIES, AND TO CREATE THE TRAVEL AND TOURISM CAPITAL INCENTIVE GRANT PROGRAM.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

1110 Id=51050
H.B. _____

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX INCENTIVES FOR CAPITAL TOURISM PROJECTS IN TIER ONE, TWO, AND THREE COUNTIES, AND TO CREATE THE TRAVEL AND TOURISM CAPITAL INCENTIVE GRANT PROGRAM.

Barclay Rogers (PRIMARY SPONSORS)

Introduced by Representative(s): Earle, ~~Barclay Rogers~~

<i>Easterday</i>	<i>Alexander</i>	<i>Sounders</i>	<i>GIBSON</i>
<i>Bullock</i>	<i>McMahon</i>	<i>Hamwright</i>	<i>Goodman</i>
_____	_____	_____	_____
_____	_____	_____	_____

Principal Clerk's Use Only

SED 1st READING
APR 11 2001
AND REFERRED TO COMMITTEE
ON Travel and Tourism

if favorable, Finance

*favorable PCS,
unfavorable original,
be re-referred to Finance*

North Carolina General Assembly
Pending House Committee on
Travel and Tourism

Date: 04/19/2001
Time: 15:07
Page: 001 of 001
Leg. Day: H-050/S-050

2001-2002 Biennium

Bill	Short Title	Date	Latest Action
H1110=	NORTH CAROLINA TOURISM DEVELOPMENT ACT.Tourism and, if favorable, to	H 04-11-2001	Ref to the Com on Travel and the Com on Finance

'\$' indicates the bill is an appropriation bill.

A bold line indicates the bill is an appropriation bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

VISITOR REGISTRATION SHEET

TRAVEL & TOURISM

MAY 30, 2001

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Kim Hibbzel	NCLM
Boyd Canble	City of Charlotte
Oale McKel	Scenic North Carolina
Amy Hobbs	NCHMA
Jim Hobbs	NCHMA
Lynn Minges	NC Dept of Commerce
David Siegel	Durham Academy - Rep. Luebke
Andrew Hainsworth	UNC at Asheville - Rep. Luebke
Mark Beam	Capital Group
John	NCRA
ST Dickinsd Jackson	NC - DOC
201 HOBART	DOC
Angie Harris	Maupia Taylor & Eli

VISITOR REGISTRATION SHEET

TRAVEL & TOURISM

Name of Committee

MAY 30, 2001

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

David Farrell

NC Hotel & Motel Assoc.

Eddie Caldwell

NC Hotel & Motel Assn.

DAVE CROTT

FISCAL RESEARCH

Paul F. Gloman

City of Hickory

Tom Icho

Sector of the Day

Rory Faulkner

Nurse of the Day